

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

JUSTIN SNELLING,

Defendant.

CASE NO. 8:09CR100

TENTATIVE FINDINGS

The Court has received the Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing No. 53, 54). The government adopted the PSR (Filing No. 55). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant's objects to ¶¶ 56 and 59, stating only that "[n]o points should be assessed for these offenses." (Filing No. 53.) The sentencing schedule requires that an objection to the PSR include "the specific nature of each objection." (Filing No. 43, ¶ 6(c).) No basis for the objections was provided. Moreover, apparently defense counsel refers to the initial draft of the PSR. Initial drafts of PSRs are never provided to the Court. Paragraphs 56 and 59 in the final version of the PSR, which was received by the Court, do not relate to prior offenses. Therefore, the Court cannot determine the paragraphs to which the Defendant objects.

IT IS ORDERED:

1. The Defendant's objections to the PSR (Filing No. 53, 54) are denied;
2. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion

challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

3. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final;

4. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing; and

5. The Defendant's motion for downward departure (Filing No. 78) will be heard at sentencing.

DATED this 30th day of July, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge